

ORDINANCE NO. _____

COPY

TO AMEND ORDINANCE NO. - 0-200903-12-014

**TITLE: AGRICULTURAL CONSERVATION EASEMENT
and FARMLAND PROTECTION COMMISSION**

WHEREAS, the County has the authority to purchase real estate for open space purposes pursuant to 55ILCS 5/5-1005; and

WHEREAS, the County is authorized to acquire land for purposes of floodplain protection, flood water run-off, detention ponds, and other public grounds and may regulate the use of these public grounds for any public purpose pursuant to 55 ILCS 5/5-1049; and

WHEREAS, the County is authorized to acquire land for the purpose of protecting the water supply pursuant to 55 ILCS 5/5-15009; and

WHEREAS, the State of Illinois has authorized the Illinois Department of Natural Resources to assist local governments in the acquisition of open space pursuant to the Open Space Land Acquisition and Development Act (525 ILCS 35/1); and

WHEREAS, the McHenry County Board finds and determines that the adoption and implementation of the McHenry County Agricultural Conservation Easement and Farmland Protection Program is necessary in order to maintain and preserve the agricultural resources, water resources and natural beauty of McHenry County; and

WHEREAS, adoption of the McHenry County Agricultural Conservation Easement and Farmland Protection Program will assist in promoting responsible managed growth patterns through intergovernmental planning agreements in conjunction with the McHenry County Unified Land Use Plan, the McHenry County Historic Preservation Ordinance, the McHenry County Stormwater Management Ordinance, and the McHenry County Groundwater Resources Management Plan.

NOW THEREFORE BE IT ORDAINED by the McHenry County Board that it hereby adopts the following:

SECTION 1: An Ordinance to create and to establish the McHenry County Agricultural Conservation Easement and Farmland Protection Program pursuant to the Illinois Property Conservation Rights Act, 765 ILCS 120/0.01 et seq., to read as follows:

1. Definitions: In this Ordinance:

- A. "Board" means the McHenry County Board.
- B. "Conservation Easement" means a holder's nonpossessory interest in real property within McHenry County imposing any limitation or affirmative obligation on, the purpose of which includes protecting viable farm operations and farmland to maintain the rural character of McHenry County, permanently preserving scenic vistas and environmentally significant areas, including wetlands, lakes, streams and

wood lots, creating and preserving "buffer zones" around significant environmental and agricultural areas, protection of McHenry County from encroachment of neighboring cities, and villages, restricting land divisions, retaining or protecting natural, scenic or open space values of real property, assuring the availability of real property for agricultural, forest, recreational or open space use, protecting natural resources, maintaining or enhancing air or water quality, preserving the historical, architectural, archaeological or cultural aspects of real property.

- C. "Commission" means the McHenry County Agricultural Conservation Easement and Farmland Protection Commission.
- D. "Conservation Interest" means a holder's interest in a conservation easement, a third-party right of enforcement in a conservation easement or fee title interest in real property.
- E. "Nonprofit Conservation Organization" means a nonprofit corporation, a charitable land trust or other nonprofit association whose purposes include the acquisition of property for conservation purposes and that is described in Section 501(c)(3) of the Internal Revenue Code and is exempt from federal income tax under Section 501(a) of the Internal Revenue Code.

2. Farmland Protection Commission

- A. Creation: There is hereby created the McHenry County Agricultural Conservation Easement and Farmland Protection Commission (hereinafter the "Commission").
- B. Duties: The Commission shall be responsible for general supervision of the McHenry County Agricultural Conservation Easement and Farmland Protection Program, in an advisory capacity to the County Board's Natural and Environmental Resources Committee, as set forth in this Ordinance, including the following:
 - 1. The Commission shall maintain contact with public and private agencies to maximize the resources and coordinate efforts to preserve the rural character of the County.
 - 2. The Commission shall conduct outreach and educational activities to raise awareness and build support for farmland protection and agricultural viability.
 - 3. The Commission shall determine the interest of owners of land within the County at least annually, to donate, transfer or sell interests in real property for the purpose of the McHenry County Agricultural Conservation Easement and Farmland Protection Program.
 - 4. The Commission shall recommend qualifying criteria for real property to be acquired by the County for agricultural protection purposes. The Commission may recommend acquisition of interests in specific parcels of real property to be acquired by the County of McHenry for agricultural protection purposes.
 - 5. The Commission may recommend changes to the McHenry County Agricultural Conservation Easement and Farmland Protection Program and suggestions as to how the McHenry County Agricultural Conservation

Easement and Farmland Protection Fund acquisition program may be integrated with the McHenry County Historic Preservation Ordinance, the McHenry County Comprehensive Land Use Plan and the McHenry County Stormwater Management Ordinance and other local and regional land use plans.

6. The Commission may conduct public meetings or public hearings as it determines necessary or convenient to its work.
 7. The Commission may prepare any application forms necessary for the McHenry County Agricultural Conservation Easement and Farmland Protection Program and prepare, review, and recommend any grant applications for State and Federal grants.
- C. Membership: Commission members shall receive no compensation in any form whatsoever in exchange for or as a result of their service on the Commission. The Commission shall consist of seven (7) voting members consisting of:
1. The Chairman of the McHenry County Natural and Environmental Resources Committee or a duly chosen representative appointed by the Chairman of the McHenry County Board.
 2. A representative of the McHenry County Farm Bureau.
 3. Five (5) members appointed by the County Board Chairman, with the advice and consent of the Board. All members shall be electors of the County, and to the extent practicable, include persons with backgrounds and experience in agriculture, finance, marketing, conservation or planning. The terms of membership shall be staggered so that at least three (3) members serve for two (2) years and the remaining two (2) serve for a period of three (3) years. Successors to the initial members shall serve for a period of three (3) years or until the vacant term expires. All ex-officio members shall serve the term of their elected or appointed office. All members shall serve until their successors are appointed by the County Board Chairman, with the advice and consent of the Board. All terms shall begin 1 January 2009.
 4. A representative from the USDA Natural Resource Conservation Service, the McHenry County Conservation District and the Planning & Development Department shall be ex-officio members but shall have no right to vote and shall not be included in determining a quorum.
- D. Officers. The Commission shall have the following officers:
1. The Commission Chair shall be appointed by the Chairman of the McHenry County Board and shall preside at all meetings of the Commission. The Commission Chairman shall serve for an initial term of one (1) year from the date of their appointment. Subsequently, the Commission shall elect a Chairman by a majority vote each January of the calendar year or shortly afterward. The elected Chairman shall serve for a term of one (1) year from

the date of the Commission's vote and shall be subject to reappointment by a majority vote of the Commission for additional one (1) year terms thereafter.

2. The Vice Chair shall be elected by a majority vote of the Commission each January of the calendar year and shall preside at meetings in the absence of the Chair. The Vice-Chairman shall serve for a term of one (1) year from the date of their appointment and shall be subject to reappointment by a majority vote of the Commission for additional one (1) year terms thereafter.
 3. A Secretary shall be elected by a majority vote of the Commission each January of the calendar year. The Secretary shall serve for a term of one (1) year from the date of their appointment and shall be subject to reappointment by a majority vote of the Commission for additional one (1) year terms thereafter. The Secretary shall be responsible for keeping minutes of meetings.
 4. A Treasurer shall be elected by a majority vote of the Commission each January of the calendar year. The Treasurer shall serve for a term of one (1) year from the date of their appointment and shall be subject to reappointment by a majority vote of the Commission for additional one (1) year terms thereafter. The Treasurer shall be responsible for maintain records of the Commissions budget.
- E. Rules of Procedure: The Commission may adopt rules of procedure governing its deliberations. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition. All recommendations regarding Rules of Procedure and/or by-laws shall be approved by the McHenry County Board. In the absence of any other such rules, the Commission shall conduct its proceedings in accordance with Robert's Rules of Order, latest revised edition, the Open Meetings Act (5 ILCS 120/1) and the Freedom of Information Act (5 ILCS 140/1). Under no circumstances should a rule of procedure or bylaw adopted by the Commission release the Commission from complying with Federal and State Statutes.

3. Agricultural Conservation Easement and Farmland Protection Program Expenditures

The Board is authorized to acquire conservation interests in real property or to make payments to nonprofit conservation organizations for the purpose of rural and farmland preservation as provided herein, based on the recommendations of the Commission.

- A. Conservation Easement Purchases: The Board shall expend funds for costs associated with the purchase or acceptance of donated holders' interests or third party rights of enforcement in conservation easements as defined, respectively, in the Illinois Property Conservation Rights Act.
- B. Payments to Nonprofit Organizations: The Board shall appropriate money for payment to a nonprofit conservation organization for the conservation of farmland and natural resources within the County or beneficial to the County, through the acquisition of conservation interests, provided that the recipient organization submits and the Board approves a detailed plan for the work to be done. The Board may attach such conditions and restrictions on the appropriation as the Board considers necessary and appropriate to protect the County's interests in farmland

protection.

- C. Voluntary Conveyances: The Board shall acquire conservation interests only from willing owners and may not exercise its power of eminent domain to acquire such interests.
- D. Indirect Costs: In addition to the purchase price therefore, the Board shall expend funds for the payment of indirect costs associated with the conduct of the program, including costs of administration, and acquisition of conservation interests, including but not limited to survey costs, title evidence, attorney's fees, appraisers' fees, environmental assessments, transfer taxes and recording fees.
- E. Voluntary Contributions: The County Board may accept voluntary contributions from individuals, organizations, or other government agencies for the purposes of acquiring conservation easements.

4. Procedure for Acquisition of Conservation Interests

- A. The Commission shall review all applications and make formal recommendations to the Natural and Environmental Resources Committee as to which conservation interests should be considered.
- B. The Board may conduct public meetings or public hearings as it determines necessary or convenient for consideration of McHenry County Agricultural Conservation Easement and Farmland Protection Program interests and/or expenditures.
- C. Prior to purchasing any conservation interest, the Board shall cause an appraisal to be prepared by a qualified appraiser setting forth the fair market value of the interest proposed to be purchased.
- D. Final Action of the County Board is required to acquire conservation interests either by purchasing the conservation interest or by voluntary conveyance.

5. Alienation of Acquired Interests

Except where the intention to reconvey conservation interest is expressly provided for in the Board's authorization to acquire such interest, no conservation interest acquired by the County under the provisions of this Ordinance shall thereafter be alienated.

6. Conflict of Interest

No person may participate in any deliberation of the Commission or the Board in the consideration or determination of any expenditure under this Ordinance in which the person, a member of the person's family, or an organization with whom the person is affiliated has a financial interest.

7. Amendment or Repeal

This Ordinance may be amended or repealed only by affirmative vote of the Board following a public hearing. All ordinances or parts thereof in conflict with the provision

of this amended Ordinance are considered repealed upon review and approval by the McHenry County Board.


8. Severability

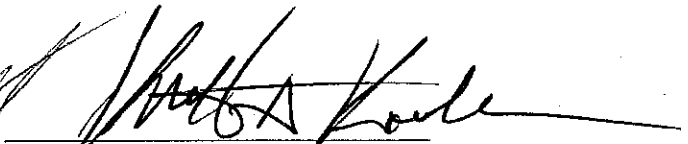
Should any provision of this Ordinance be adjudged invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of any other provision of this Ordinance.

SECTION 2: This Ordinance shall take effect immediately upon its passage as provided by law.

Dated this 22nd day of March, A.D., 2012.

ATTEST:


Katherine Schultz
County Clerk


Kenneth D. Kochler
Chairman, McHenry County Board

STATE OF ILLINOIS)

SS

COUNTY OF MCHENRY)

I, Katherine C. Schultz, County Clerk within and for said County and State aforesaid, do hereby certify the attached to be a true and complete copy of Ordinance No. O-201203-12-018 Ordinance to amend Ordinance No O-200903-12-014 Agricultural Conservation Easement and Farmland Protection Commission

WHEREOF I have hereunto subscribed my hand and affixed the official seal of said County, at my office in Woodstock, Illinois this 23rd day of March A.D, 2012.

Katherine C Schultz
McHenry County Clerk

